

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA,
Plaintiff,

v.

ALEXANDRU BITTNER,
Defendant.

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Case No. 4:19-CV-00415

**DEFENDANT'S RESPONSES TO
PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS**

TO: Plaintiff, United States of America, by and through its attorneys of record, Herbert W. Linder and Holly M. Church, Department of Justice Tax Division, 717 N. Harwood, Suite 400, Dallas, Texas 75201.

ALEXANDRU BITTNER, Defendant in the above-entitled and numbered cause, serves these his Responses to Plaintiff's First Request for Admissions as follows:

REQUEST FOR ADMISSION NO. 1. Admit that during 2005, you were a United States' Citizen.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 2. Admit that during 2006, you were a United States' Citizen.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 3. Admit that during 2007, you were a United States' Citizen.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 4. Admit that during 2008, you were a United States' Citizen.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 5. Admit that during 2009, you were a United States' Citizen.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 6. Admit that during 2010, you were a United States' Citizen.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 7. Admit that during 2011, you were a United States' Citizen.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 8. Admit that on or before June 30 of 2008, you were required to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts," reporting your financial interest, signature authority or control over financial accounts in foreign countries for the 2007 year.

RESPONSE: Mr. Bittner admits he had an obligation to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts" for the 2007 year, reporting that he had a financial interest in 51 foreign financial accounts. Alleges for clarification that he had no knowledge of this obligation until late 2011 or early 2012.

REQUEST FOR ADMISSION NO. 9. Admit that you were required to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts," reporting your financial interest, signature authority or control over 51 financial accounts in foreign countries for the 2007 year.

RESPONSE: Mr. Bittner admits he had an obligation to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts" for the 2007 year, reporting that he had a financial interest in 51 foreign financial accounts. Alleges for clarification that he had no knowledge of this obligation until late 2011 or early 2012.

REQUEST FOR ADMISSION NO. 10. Admit that you failed to timely file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts, for 2007 regarding any financial accounts in foreign countries.

RESPONSE: Admits. Alleges for clarification that he had no knowledge of his obligation to file Form TD F 90-22.1 until late 2011 or early 2012.

REQUEST FOR ADMISSION NO. 11. Admit that you filed a untimely Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts," reporting your financial interest in 61 foreign financial accounts for 2007 attached as Government Exhibit 1.

RESPONSE: Admits. Alleges for clarification that Exhibit 1 is not a complete copy of Mr. Bittner's corrected 2007 Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts, filing, which also included 36-pages of charts with bank information and maximum account balances, one page for each separate taxpayer name or entity. Also alleges for clarification that certain company accounts were inadvertently included for which Mr. Bittner did not have a financial interest because he did not own more than 50 percent of the total value of shares of stock or more than 50 percent of the voting power of all shares of stock.

REQUEST FOR ADMISSION NO. 12. Admit that on or before June 30 of 2009, you were required to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts," reporting your financial interest, signature authority or control over financial accounts in foreign countries for the 2008 year.

RESPONSE: Mr. Bittner admits he had an obligation to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts" for the 2008 year, reporting that he had a financial interest in 43 foreign financial accounts. Alleges for clarification that he had no knowledge of this obligation until late 2011 or early 2012.

REQUEST FOR ADMISSION NO. 13. Admit that you were required to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts," reporting your financial interest, signature authority or control over 43 financial accounts in foreign countries for the 2008 year.

RESPONSE: Mr. Bittner admits he had an obligation to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts" for the 2008 year, reporting that he had a financial interest in 43 foreign financial accounts. Alleges for clarification that he had no knowledge of this obligation until late 2011 or early 2012.

REQUEST FOR ADMISSION NO. 14. Admit that you failed to timely file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts, for 2008 regarding any financial accounts in foreign countries.

RESPONSE: Admits. Alleges for clarification that he had no knowledge of his obligation to file Form TD F 90-22.1 until late 2011 or early 2012.

REQUEST FOR ADMISSION NO. 15. Admit that you filed a untimely Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts," reporting your financial interest in 51 foreign financial accounts for 2008 attached as Government Exhibit 2.

RESPONSE: Admits. Alleges for clarification that Exhibit 2 is not a complete copy of Mr. Bittner's corrected 2008 Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts, filing, which also included 36-pages of charts with bank information and maximum account balances, one page for each separate taxpayer name or entity. Also alleges for clarification that certain company accounts were inadvertently included for which Mr. Bittner did not have a financial interest because he did not own more than 50 percent of the total value of shares of stock or more than 50 percent of the voting power of all shares of stock.

REQUEST FOR ADMISSION NO. 16. Admit that on or before June 30 of 2010, you were required to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts," reporting your financial interest, signature authority or control over financial accounts in foreign countries for the 2009 year.

RESPONSE: Mr. Bittner admits he had an obligation to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts" for the 2009 year, reporting that he had a financial interest in 42 foreign financial accounts. Alleges for clarification that he had no knowledge of this obligation until late 2011 or early 2012.

REQUEST FOR ADMISSION NO. 17. Admit that you were required to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts," reporting your financial interest, signature authority or control over 46 financial accounts in foreign countries for the 2009 year.

RESPONSE: Denies. Admits that Mr. Bittner had an obligation to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts" for the 2009 year, reporting that he had financial interest in 42 foreign financial accounts. Alleges for clarification that he had no knowledge of this obligation until late 2011 or early 2012.

REQUEST FOR ADMISSION NO. 18. Admit that you failed to timely file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts, for 2009 regarding any financial accounts in foreign countries.

RESPONSE: Admits. Alleges for clarification that he had no knowledge of his obligation to file Form TD F 90-22.1 until late 2011 or early 2012.

REQUEST FOR ADMISSION NO. 19. Admit that you filed a untimely Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts," reporting your financial interest in 54 foreign financial accounts for 2009 attached as Government Exhibit 3.

RESPONSE: Admits. Alleges for clarification that Exhibit 3 is not a complete copy of Mr. Bittner's corrected 2009 Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts, filing, which also included 36-pages of charts with bank information and maximum account balances, one page for each separate taxpayer name or entity. Also alleges for clarification that certain company accounts were inadvertently included for which Mr. Bittner did not have a financial interest because he did not own more than 50 percent of the total value of shares of stock or more than 50 percent of the voting power of all shares of stock.

REQUEST FOR ADMISSION NO. 20. Admit that on or before June 30 of 2011, you were required to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts," reporting your financial interest, signature authority or control over financial accounts in foreign countries for the 2010 year.

RESPONSE: Mr. Bittner admits he had an obligation to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts" for the 2010 year, reporting that he had a financial interest in 41 foreign financial accounts. Alleges for clarification that he had no knowledge of this obligation until late 2011 or early 2012.

REQUEST FOR ADMISSION NO. 21. Admit that you were required to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts," reporting your financial interest, signature authority or control over 41 financial accounts in foreign countries for the 2010 year.

RESPONSE: Mr. Bittner admits he had an obligation to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts" for the 2010 year, reporting that he had a financial interest in 41 foreign financial accounts. Alleges for clarification that he had no knowledge of this obligation until late 2011 or early 2012.

REQUEST FOR ADMISSION NO. 22. Admit that you failed to timely file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts, for 2010 regarding any financial accounts in foreign countries.

RESPONSE: Admits. Alleges for clarification that he had no knowledge of his obligation to file Form TD F 90-22.1 until late 2011 or early 2012.

REQUEST FOR ADMISSION NO. 23. Admit that you filed a untimely Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts," reporting your financial interest in 53 foreign financial accounts for 2010 attached as Government Exhibit 4.

RESPONSE: Admits. Alleges for clarification that Exhibit 4 is not a complete copy of Mr. Bittner's corrected 2010 Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts, filing, which also included 36-pages of charts with bank information and maximum account balances, one page for each separate taxpayer name or entity. Also alleges for clarification that certain company accounts were inadvertently included for which Mr. Bittner did not have a financial interest because he did not own more than 50 percent of the total value of shares of stock or more than 50 percent of the voting power of all shares of stock.

REQUEST FOR ADMISSION NO. 24. Admit that on or before June 30 of 2012, you were required to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts," reporting your financial interest, signature authority or control over financial accounts in foreign countries for the 2011 year.

RESPONSE: Mr. Bittner admits he had an obligation to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts" for the 2011 year, reporting that he had a financial interest in 43 foreign financial accounts. Alleges for clarification that Mr. Bittner first learned of his obligation to report foreign bank accounts in late 2011 or early 2012 and sought compliance advice and assistance from CPA Jeff Beckley, who prepared and timely filed that form for the year 2011, but, unknown to Mr. Bittner, prepared the form incorrectly.

REQUEST FOR ADMISSION NO. 25. Admit that you were required to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts," reporting your financial interest, signature authority or control over 46 financial accounts in foreign countries for the 2011 year.

RESPONSE: Denies. Mr. Bittner admits he had an obligation to file a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts" for the 2011 year, reporting that he had a financial interest in 43 foreign financial accounts. Alleges for clarification that Mr. Bittner did not understand how to complete Form TD F 90-22.1 on or before June 30 of 2012 nor understand the meaning of "financial interest". Also alleges for clarification that Mr. Bittner sought compliance advice and assistance from CPA Jeff Beckley, in January of 2012, who incorrectly advised him concerning reportable financial accounts for 2011 and other years.

REQUEST FOR ADMISSION NO. 26. Admit that you originally filed a Form TD F 90-22.1, "Report of Foreign Bank and Financial Accounts, for 2011 reporting your financial interest in only one financial account in a foreign countries.

RESPONSE: Mr. Bittner admits that one personal account in Romania was reported on the original 2011 Form TD F 90-22.1. Alleges for clarification that he did not understand how to complete Form TD F 90-22.1 on or before June 30 of 2012, nor did he understand the meaning of “financial interest”. Mr. Bittner also alleges for clarification that he sought compliance advice and assistance from CPA Jeff Beckley, beginning in January of 2012, who incorrectly advised him concerning reportable foreign financial accounts for 2011 and other years.

REQUEST FOR ADMISSION NO. 27. Admit that you filed a untimely Form TD F 90-22.1, “Report of Foreign Bank and Financial Accounts,” reporting your financial interest in 53 foreign financial accounts for 2011 attached as Government Exhibit 5.

RESPONSE: Denies that the Form TD F 90-22.1 attached as Government Exhibit 5 was untimely, but admits the remainder of the request. Alleges that he timely filed a Form TD F 90-22.1 for the 2011 year, but because he later learned it was incorrect, he filed a corrected Form. Alleges for clarification that Exhibit 5 is not a complete copy of Mr. Bittner’s corrected 2011 Form TD F 90-22.1, “Report of Foreign Bank and Financial Accounts, filing, which also included 36-pages of charts with bank information and maximum account balances, one page for each separate taxpayer name or entity. Also alleges for clarification that certain company accounts were inadvertently included for which Mr. Bittner did not have a financial interest because he did not own more than 50 percent of the total value of shares of stock or more than 50 percent of the voting power of all shares of stock.

REQUEST FOR ADMISSION NO. 28. Admit that during 2007 the financial accounts in foreign countries that you had a financial interest in contained more than \$10,000 in aggregate.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 29. Admit that during 2008 the financial accounts in foreign countries that you had a financial interest in contained more than \$10,000 in aggregate.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 30. Admit that during 2009 the financial accounts in foreign countries that you had a financial interest in contained more than \$10,000 in aggregate.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 31. Admit that during 2010 the financial accounts in foreign countries that you had a financial interest in contained more than \$10,000 in aggregate.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 32. Admit that during 2011 the financial accounts in foreign countries that you had a financial interest in contained more than \$10,000 in aggregate.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 33. Admit that you signed the Form 2848 attached as Government Exhibit 6, appointing Farley Katz as your representative regarding FBAR related matters for the 1990-2011 years.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 34. Admit that your representative Farley Katz sent the letter attached as Government Exhibit 7 to the IRS.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 35. Admit that your representative Farley Katz sent the letter attached as Government Exhibit 8 to the IRS.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 36. Admit that your representative Farley Katz sent the letter attached as Government Exhibit 9 to the IRS.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 37. Admit that you signed the “Consent to Extend the Time to Assess Civil Penalties Provided by 31 U.S.C. § 5321 for FBAR Violations” attached as Government Exhibit 10.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 38. Admit that your representative Farley Katz signed the “Consent to Extend the Time to Assess Civil Penalties Provided by 31 U.S.C. § 5321 for FBAR Violations” attached as Government Exhibit 11.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 39. Admit that your representative Farley Katz signed the “Consent to Extend the Time to Assess Civil Penalties Provided by 31 U.S.C. § 5321 for FBAR Violations” attached as Government Exhibit 12.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 40. Admit that you signed the “Consent to Extend the Time to Assess Civil Penalties Provided by 31 U.S.C. § 5321 for FBAR Violations” attached as Government Exhibit 13.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 41. Admit that you signed the “Consent to Extend the Time to Assess Civil Penalties Provided by 31 U.S.C. § 5321 for FBAR Violations” attached as Government Exhibit 14.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 42. Admit that you signed the “Consent to Extend the Time to Assess Civil Penalties Provided by 31 U.S.C. § 5321 for FBAR Violations” attached as Government Exhibit 15.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 43. Admit that you signed the “Consent to Extend the Time to Assess Civil Penalties Provided by 31 U.S.C. § 5321 for FBAR Violations” attached as Government Exhibit 16.

RESPONSE: Admits.

REQUEST FOR ADMISSION NO. 44. Admit that that the your representative Farley Katz provided the chart highlighted on attached Government Exhibit 17 which provided the number of reportable accounts on your 2007 through 2011 FBARs, “Form TD F 90-22.1, “Report of Foreign Bank and Financial Accounts”.

RESPONSE: Admits that the undersigned counsel provided the chart in Government Exhibit 17. Alleges that upon further investigation and analysis of documentation related to Mr. Bittner’s ownership percentages in various companies, the number of financial accounts for which he had a financial interest is less for 2009 and 2011. That information will be supplied in Defendant’s Responses to Plaintiff’s First Request for Production.

REQUEST FOR ADMISSION NO. 45. Admit that during 2007 the financial accounts in foreign countries that you had signature authority over contained more than \$10,000 in aggregate.

RESPONSE: Admits. Alleges for clarification, Mr. Bittner only had signatory authority over his personal financial accounts for 2007 and there are no foreign financial accounts where Mr. Bittner had signatory authority but no financial interest.

REQUEST FOR ADMISSION NO. 46. Admit that during 2008 the financial accounts in foreign countries that you had signature authority over contained more than \$10,000 in aggregate.

RESPONSE: Admits. Alleges for clarification, Mr. Bittner only had signatory authority over his personal financial accounts for 2008 and there are no foreign financial accounts where Mr. Bittner had signatory authority but no financial interest.

REQUEST FOR ADMISSION NO. 47. Admit that during 2009 the financial accounts in foreign countries that you had signature authority over contained more than \$10,000 in aggregate.

RESPONSE: Admits. Alleges for clarification, Mr. Bittner only had signatory authority over his personal financial accounts for 2009 and there are no foreign financial accounts where Mr. Bittner had signatory authority but no financial interest.

REQUEST FOR ADMISSION NO. 48. Admit that during 2010 the financial accounts in foreign countries that you had signature authority over contained more than \$10,000 in aggregate.

RESPONSE: Admits. Alleges for clarification, Mr. Bittner only had signatory authority over his personal financial accounts for 2010 and there are no foreign financial accounts where Mr. Bittner had signatory authority but no financial interest.

REQUEST FOR ADMISSION NO. 49. Admit that during 2011 the financial accounts in foreign countries that you had signature authority over contained more than \$10,000 in aggregate.

RESPONSE: Admits. Alleges for clarification, Mr. Bittner only had signatory authority over his personal financial accounts for 2011 and there are no foreign financial accounts where Mr. Bittner had signatory authority but no financial interest.

CLARK HILL STRASBURGER

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By: /s/ Farley P. Katz 

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**ATTORNEYS FOR DEFENDANT
ALEXANDRU BITTNER**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 21, 2020, a true and correct copy of the foregoing was served upon counsel of record via email as follows:

Herbert W. Linder
Holly M. Church
Attorneys, Tax Division
United States Department of Justice
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Herbert.W.Linder@usdoj.gov
Attorneys for Plaintiff,
United States

/s/Rachael Rubenstein
Rachael Rubenstein

A handwritten signature in black ink, appearing to read 'Rachael Rubenstein', is written over a horizontal line.